

**MINUTES
BOARD OF REGISTRATION IN PODIATRY**

DATE: February 26, 2004

TIME: 9:00 a.m., C.S.T.

LOCATION: Cumberland Room
Ground Floor, Cordell Hull Building
Nashville, TN

MEMBERS

PRESENT: Donald Skwor, DPM, Chair
David Long, DPM
Aaron Perkins, DPM

MEMBERS

ABSENT: Dennis Bizzoco, DPM
Shannon Bottoms

STAFF

PRESENT: Janice Williams, Board Administrator
Nicole Armstrong, Advisory Attorney
Rick Agee, Unit Director
Barbara Maxwell, Administrative Director
Jerry Kosten, Rules Coordinator

Dr. Donald Skwor, chair, called the meeting to order at 9:00 a.m., on February 26, 2004. A roll call vote was conducted and it was determined that enough board members were present to constitute a quorum.

Review and approve minutes

Upon review of the September 25, 2003 minutes the board determined to accept the minutes as written.

Review Conflict of Interest Policy

Ms. Armstrong, advisory attorney, reviewed the conflict of interest policy with the board to assure that the individual interests of board members do not conflict with their responsibilities to the Board.

Report from Nicole Armstrong, Advisory Attorney

Ms. Armstrong reviewed the Office of General Counsel (OGC) Report and stated Rule 1155-3-.03 regarding reciprocity for x-ray operators is at the Attorney General's office for review. Ms. Armstrong said there are two rule amendments for the board's consideration, which Mr. Kosten will discuss in his report.

Ms. Armstrong said there are six open files pertaining to podiatrists in OGC; however, no case hearings are scheduled for today's meeting.

Investigative Report

Mr. Phelps reviewed the Investigative Report and stated there are four (4) open complaints from 2003 and one complaint for 2004 for unprofessional conduct.

Disciplinary Report

Ms. Phelps, Disciplinary Coordinator, reviewed the disciplinary report with the board, stating there are three practitioners being monitored. Ms. Phelps stated she included a list of all disciplined podiatrists for the board's review.

Report from Jerry Kosten

Mr. Kosten reviewed the rulemaking hearing conducted December 23, 2003 to amend Rule 1155-2-.15 regarding disciplinary actions. Mr. Kosten stated no one from Podiatry attended the meeting and he received no correspondence regarding the amendment. Upon review of the amendment, Dr. Perkins made a motion, seconded by Dr. Long to amend the rules as written. A roll call vote was conducted and all members voted in the affirmative.

Dr. Perkins voiced his concerns over not being notified of the rulemaking hearing prior to the board meeting and made a motion to withdraw his previous motion and table this amendment until the next meeting in order to review the rule amendment. Dr. Long seconded the motion. The motion carried.

Mr. Kosten reviewed the rulemaking hearing conducted December 17, 2003 to promulgate a new rule and rule amendment pursuant to T.C.A. §4-5-202, §4-5-204 and §63-3-106 regarding disciplinary costs, professional corporations and practice limitations. Mr. Kosten stated no one from Podiatry attended the meeting and he received no correspondence regarding the amendment. Dr. Skwor stated the amendment was discussed at the last meeting. Dr. Perkins made a motion, seconded by Dr. Long, to adopt the amendment as written. A roll call vote was conducted and all members voted in the affirmative.

Discuss advertising policy

Dr. Skwor said he felt the rules were clear that any misleading, fraudulent or false advertising is unacceptable. Dr. Skwor asked if the board wanted to implement more stringent or clarifying rules

regarding advertising. Dr. Skwor said he was concerned with an advertisement from a podiatrist in which he stated he is board certified.

Dr. Perkins said there are no provisions in the rules that prohibit a podiatrist from holding themselves out to be board certified. Dr. Long said it is misleading to say you are board certified, and the advertisement should state the name of the certifying board.

Upon discussion, the board requested Mr. Kosten to prepare a rule amendment regarding advertisement for the board's review at the next meeting.

Discuss legislation to amend the statutes

Ms. Armstrong informed the board that an amendment to the statutes to change the name of the board and delete the preceptorship section of the statute required legislation which is usually submitted by the association. Ms. Armstrong said the board cannot submit legislation.

Mr. John Williams, lobbyist for the Tennessee Podiatric Medical Association, addressed the board and said if the board wants the legislation submitted next year they should inform the association of the new board name and review the statutes thoroughly to determine if other changes are needed.

Dr. Skwor asked Ms. Williams to keep the name change of the board and the deletion of the preceptorship section of the statute on the agenda for the next meeting.

Discuss the practice of medical nail technicians

Ms. Beverly Waller, Director of the Tennessee Board of Cosmetology, attended the meeting at the request of the board to discuss medical nail technicians.

Dr. Skwor said podiatrists were concerned about fungus infections from nail technicians.

Ms. Waller said nail technicians are required to accumulate a 600 hour curriculum which includes sterilization, chemicals, and usage of materials, manicures and pedicures. Ms. Waller said the technicians are taught to identify basic nail fungus but are not allowed to treat fungus or work on a client with a fungus.

Upon conclusion, the board thanked Ms. Waller for attending the meeting and discussing the educational and licensure requirements for nail technicians.

Discuss legislation concerning orthotic and pedorthic surgeons

Mr. Williams said the general assembly made a change in the law resulting from a court decision in the mid 90's due to confusion as to whether or not podiatrist could work on the ankle. Mr. Williams said the law was interpreted that podiatrists could work on the ankle and the decision was appealed to Chancery Court, which determined podiatrist could not work on the ankle. Mr. Williams said 2002 legislation changed the law allowing podiatrists to work on the ankle. Mr. Williams said podiatrists who obtained a twenty-four (24) month residency in podiatric surgery, reconstructed rear foot surgery, could work on the ankle.

Mr. Williams said there is a bill in legislation that would delete those requirements from the statute and that each hospital and ambulatory surgery center that allows podiatrists to perform ankle surgery at that facility would have to set the standards for the podiatrists they employ.

Mr. Williams said the Tennessee Podiatric Medical Association is dealing with a bill regarding orthotic and pedorthic surgeons as the Governor's office is concerned about creating a new board as it would have an impact on the budget.

Ms. Bell stated the Governor's office has flagged any legislation that includes the creation of a new board. Mr. Williams said the board may want to consider agreeing to be the parent board.

Dr. Perkins requested that the board go on record as agreeing to be the parent board for the orthotic and pedorthic sub-board. Dr. Perkins made a motion, seconded by Dr. Long, to be an umbrella for orthotic and pedorthic surgeons. The motion carried.

Ratify Podiatry X-Ray Operators for licensure

Dr. Perkins made a motion, seconded by Dr. Long, to ratify the following Podiatry X-Ray operators for licensure:

**Debbie Anderson
Sandy Attaway
Sheena Bowers
Patty Chancey
Carol Cook
Patricia Doyle
Stacey Hale
Teresa Hendrickson
Melinda Hill
Caryl McCartt
Donna McNew
Denise Neidig
Cynthia Skaufel
Julie Vance
Amanda Jo Visk
Lisa Wright**

The motion carried.

Dr. Perkins made a motion, seconded by Dr. Long, to ratify the following Podiatry X-Ray operator for reinstatement:

Carrie Porter

The motion carried.

Dr. Perkins reviewed the application file for Robin Vigus who had a misdemeanor 20 years ago. Upon review, Dr. Perkins made a motion, seconded by Dr. Long, to ratify Ms. Vigus for licensure. The motion carried.

Ratify Podiatrists for licensure

Dr. Perkins made a motion, seconded by Dr. Long, to ratify the following Podiatrists for licensure:

Nate A. Brenna, DPM
Cedric Cooper, DPM
Claude J. Wamack, DPM
Michael Webb, DPM

The motion carried.

Podiatrists file approval pending the oral examination

Dr. Long made a motion, seconded by Dr. Perkins, to approve the following Podiatrists pending successfully passing the oral examination:

Jeffrey M. Dull
Christine M. Dunn
Jacon Bickle

The motion carried

Dr. Perkins made a motion, seconded by Dr. Long, to approve the following Podiatrist for reinstatement:

Reed Luikaart

The motion carried.

Discuss House Bill 3159

Mr. Williams stated that HB3159 pertains to several boards, including podiatry, which uses the term podiatric physician. Mr. Williams said the bill does not allow podiatrists to call themselves podiatric physicians or use the limited professional corporation with their name. Mr. Williams said the bill also makes it a misdemeanor to use the designation podiatric physician and requires podiatrists to assign in intelligent lettering the professional degree and maintain a copy of their license in the waiting room. Mr. Williams said the association opposes the bill as they feel it's a matter that needs to be determined by each board and is not needed to accomplish the goal.

Discuss and consider authorizing a rulemaking hearing regarding the oral examination process

Ms. Armstrong informed the board there are two brief references in their rules pertaining to the oral examination. Ms. Armstrong said the process for the oral examination is not in the rules and the process up to this point is vague.

Ms. Bell asked who developed the examination, and if it had been tested to determine if it's psychometrically sound.

Dr. Skwor stated the oral examination is an old exam which has been passed down and to his knowledge has not been tested to see if it's psychometrically sound. Dr. Skwor said the purpose of the exam is to be certain the applicant is familiar with state law as far as scope of practice, requirements, ethics, etc.

Ms. Bell said if the board wanted to make sure the licensees read the rules they can include a questionnaire with the application package to be completed and returned with the application.

Upon discussion, the board determined to conduct the oral examination over the telephone until the rules can be amended to delete the oral examination and include a written jurisprudence examination with the application process.

Dr. Long made a motion, seconded by Dr. Perkins, to eliminate the oral exam for new applicants and develop a written jurisprudence examination on the rules and law. The motion carried.

Ms. Bell said the rule amendment will be e-mailed to the board members for their review and comments.

Dr. Skwor stated his term ends in 2005 and asked if he can finish his term if he retires his license.

Ms. Bell said according to the statutes Dr. Skwor can remain a member of the board if he retires his license.

Dr. Skwor asked Ms. Williams if there were any other board business to conduct. Ms. Williams informed Dr. Skwor the only other business to conduct was the administrative report, office of health licensure and regulation report and status report which are all self explanatory.

With no other board business to conduct, Dr. Perkins, made a motion, seconded by Dr. Long, to adjourn the board meeting at 11:15 a.m. The motion carried.

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